

*Serial No. 10/772,554
Amendment dated Feb. 17, 2005
Reply to Office Action of Nov. 17, 2004*

REMARKS

With this paper, claims 1, 4, 7, 14 and 16 are amended and claim 19 is canceled. Claims 1-18 are pending. Reconsideration of this application, as amended, is requested.

Claims 1 and 14 have been amended to better clarify that the bottom fin of the bag is formed at the bottom-most portion of the bag while the bag is moving. That is, the progress of the bag is continuous through the sealer; the bag does not incrementally move, stop and restart during the fin sealing process. Support for these amendments can be found, for example, at page 5, lines 3-4 of the application. Claims 4 and 16 have been amended to also better clarify the continuous sealing step.

Claim 7 has been amended to better clarify that the step of folding the fin against the unfinished base to form a base is done while the bag is moving. Support for this amendment can be found, for example, at page 5, lines 5-6.

102 Rejections

Claims 1-11 were rejected under 35 U.S.C. 102(b) as anticipated by Finke et al., U.S. Patent No. 3,266,387. Claim 1 has been amended to better clarify the distinction between the present invention and Finke et al.

Amended claims 1-11 are not anticipated by Finke et al. Applicants agree that Finke et al. provides a bag, provides a bottom fin, folds down the fin, and then folds in triangular pockets to form a flat bottom. However, the method of pending claim 1 differs from the method of Finke et al. at least because the pending method has the bag moving during the fin sealing step. At column 4, lines 32-37, Finke et al. describes that, according to their method, the bag is conveyed intermittently, in a stepwise manner, so that the various steps are performed on the bag while the bag is at a standstill. There is no suggestion in Finke et al. of performing the claimed step while the bag is moving. The present invention has the bags moving during the fin sealing process. This is described at, for example, page 5, lines 3-4 of the specification and is shown, for example, in FIG. 6. Claim 5 defines the sealer as being a continuous sealer, and claim 6 defines the sealer as being a rotary sealer. The rotary sealer is described at, for example, page 10, first full paragraph. Finke et al. does not disclose or suggest the use of the type of sealer for their intermittent process.

Serial No. 10/772,554
Amendment dated Feb. 17, 2005
Reply to Office Action of Nov. 17, 2004

At least for these reasons, claims 1-11 are not anticipated by Finke et al., and withdrawal of the rejection is requested.

103 Rejections

Claims 12-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Finke et al. in view of Wood, U.S. Patent No. 5,165,799. Claim 1, from which claims 12-13 depend, has been amended to better clarify the distinction between the present invention and Finke et al. and Wood. Claim 14 has been amended to better clarify the distinction between the present invention and Finke et al. and Wood.

As discussed above, Finke et al. describes that according to their method, the bag is conveyed intermittently, in a stepwise manner, so that the various steps are performed on the bag while the bag is at a standstill. The present invention has the bags moving during the fin sealing process. The claims defining the present invention are patentable over Finke et al.

The claims are also patentable over Finke et al. when combined with Wood. Wood states that the average output for heat seal machines is 60 to 200 bags per minute and 100 to 1000 bags per minute for glue seal machines. This data is irrelevant to the claimed method of folding the bags because the heat seal machines and glue seal machines described in the Wood patent, for which the rates are provided, are machines for merely sealing side seams and bottom seams of bags (see column 1, lines 25-26 and 37-38); the pending method claims include steps of folding and sealing the bag. There is no teaching or suggestion in Wood that rates of at least 20 bags/minutes or 40 bags/minute for sealing as well as folding the bags could be obtained.

Even when combined, Finke et al. and Wood do not teach, suggest, or lead one to the methods of the pending claims. Neither reference nor the combination provides a method where the bag is continuously moved during the fin sealing process.

At least for these reasons, claims 12-18 are patentable over Finke et al. and Wood, and withdrawal of the rejection is requested.

Claim 19 was rejected under 35 U.S.C. 102(b) as anticipated by Cortopassi, U.S. Patent No. 6,206,570, or in the alternative, as unpatentable under 35 U.S.C. 103(a) over Cortopassi. Although not acquiescing to the rejection, claim 19 has been canceled to facilitate prosecution of

Serial No. 10/772,554

Amendment dated Feb. 17, 2005

Reply to Office Action of Nov. 17, 2004

the remaining claims. Applicants reserve the right to pursue this claim, or a claim of similar scope, in further continuation applications.

SUMMARY

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: February 17, 2005



Mara E. Liepa
Reg. No. 40,066

